

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:

Telecommunications Services Inside Wiring)	CS Docket No. 95-184
Customer Premises Equipment)	
In the Matter of the Cable Television Consumer)	
Protection and Competition Act of 1992: Cable)	MM Docket No. 92-260
Home Wiring)	

Further Notice of Proposed Rule Making

Reply Comments of the

Independent Multi-Family Communications Council

(IMCC)

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The Independent Multi-Family Communications Council (IMCC) represents a cross-section of companies that provide telecommunications services to residents of the numerous types of multiple dwelling unit (MDU) communities. Members include MVPDs such as Private Cable Operators (PCOs), equipment manufacturers, program distributors, Internet service providers and, importantly, residential property owners and development companies.

IMCC submits these Reply Comments regarding the expanded definition of Physically Inaccessible in the FCC MDU Inside Wiring Rules (Rules).

IMCC Views Consistent With Those of MDU Owners

IMCC has carefully studied the Comments of the Real Access Alliance (RAA) and believes them to be well reasoned and consistent with the views of MVPDs such as PCOs. Those RAA views are presented for the very MDU companies that seek to provide quality video and telecommunications services to MDU residents and are presented by the companies that build and maintain MDU communities and their buildings. The IMCC member PCOs work with those MDU owners on a daily basis and recognize them as the experts in construction methodology and in maintaining those structures in safe and attractive condition. Their views are far more valid and meaningful regarding the definition and importance of building structural integrity and the need to avoid disruption to residents than are the views of the franchised cable companies (MSOs). This is particularly true when one understands that those MSOs are the very companies that seek to frustrate and impede the utilization of the Rules which are based on the Congressional and FCC intent to enhance competition to benefit residents.

The RAA Comments make abundantly clear that to MDU owners across the country, representing millions of residential units, it is self-evident that sheet rock/drywall is a preexisting structural element and not merely surface finish or decorative flourish. It is not added after the building is completed. It is a fundamental component of construction of the structure to provide support for the building. It also acts as a firewall and safety, obviously, is a fundamental responsibility of the MDU owner. There are numerous significant functions provided by sheet rock/drywall thus requiring different types and grades of the substance for different structural and safety purposes. It also serves as the construction element that separates units and rooms and is, therefore, central to the definition of "multiple" in an MDU.

IMCC Views the Comments of the NCTA as Misleading

IMCC has also studied the Comments of the National Cable & Television Association (NCTA) and finds them to be unconvincing. They are based on narrow views not reflective of that which normally occurs in the real world of providing video services in MDUs, particularly when service by the MSO is terminated and transferred to an MVPD such as a PCO. This becomes particularly relevant if one seeks to utilize the Rules to enhance video competition for the benefit of MDU residents.

NCTA states that connecting to the home run wire outside each residential unit can be accomplished easily, inexpensively and without any adverse impact to the structural or aesthetic elements of the building. For instance, Mr. John Donahue of Comcast Cable Corporation states, "...cutting, drilling, opening, plugging, spackling, taping, sanding, painting and repairing sheetrock are insignificant." If that listing were not enough, unfortunately that delineation of steps in the process conveniently ignores the process of finding the exact place in the ceiling or wall where the intrusion must be made to make the connection. It also ignores the fact that the process usually requires using electrical taping at the connection. Another important step in the process that NCTA ignores is that service to each unit must be tested after the connection is made. Another NCTA supporter, Mr. Jack Rockwell of Adelphia Cable Company, goes so far as to state that all that is needed is to "...drill a 3/8 inch hole in order to access..." the wiring. That is totally without merit.

NCTA also offers the gross miscalculation, or misrepresentation, that the above process and all of the steps required can be accomplished inexpensively. It states that this process even given the abbreviated list offered by Mr. Donahue can be accomplished for \$25.00 (twenty-five dollars). That is, on its face, ludicrous. The IMCC Comments presented views by PCOs that the realistic number is in the range of \$150 to \$250 per unit. Perhaps that amount is considered to be inexpensive and to be ignored by the very large MSOs. For a PCO trying to provide competition and reduced subscriber rates that amount can mean the difference between entering into a service contract or not. If the contract cannot be consummated due to that added and unnecessary cost, then the consumer is the loser because the benefits of competition cannot be realized.

Further Views of PCO Providers

Numerous PCO owners and managers have reviewed the Comments of the NCTA and offer the following observations which reflect the views of alternative providers across the country:

1. Jonathan Krasner of Robin Technologies states that, "The process of installing a new home run wire behind an existing drywall barrier or connecting to it is unwieldy, expensive for PCOs and is generally an unacceptable process for MDU owners. To do so requires several hours of labor per unit and consequently costs hundreds of dollars. In addition, it is disruptive to properties and their operations. Property managers are constantly dealing with all types of problems and issues. To take on another construction project that does not have to be done is something that they do not want and a problem they do not need, often leading to the manager recommending to the building owner that the project not go forward. This, of course, would prevent my PCO from providing service. Television is a necessary service to offer to the residents and building owners welcome competition and would like to have a choice of providers. However, if signing a contract with an alternative provider is so troublesome to them and their residents, the property owner will often simply stay with the incumbent provider, almost always the franchised cable company."
2. Rich Baxter of Consolidated Smart Systems states that, "The NCTA Comments ignore the reality that home run wiring is not normally run through common areas and then branched into a residential unit. Almost always the wiring is run in bundles through and across the ceilings and wall of other units. Simply toning, as NCTA suggests, is not nearly as simple as they state. The disruption and inconvenience to residents, the primary concern of building managers, just to find the wiring, much less access it, is difficult if not impossible without prohibitive and nonproductive expense and disruption."
3. Don Bowen of Convergent Broadband Communications states that, "If the FCC expects PCOs and MDU owners to provide alternative service, the demarcation point should be at the end of the service drop or at the tap. Repeating all the steps needed to do that at each

unit is a waste of time and money; viewed as unacceptable in most situations encountered by MDUs and PCOs."

4. John Craig of Telepro Communications states that, "The views of the franchised cable companies ignore the question of how many floors are in the building and whether the project is a new build or a post wiring situation. Also, if the wiring is substandard and requires upgrading then you have a major additional problem. Finding the place to open the wall or ceiling is dependent on the building material used and in many cases makes finding the place to open the hole a realistically prohibitive task. Simply putting a face plate over the hole is most often not acceptable to building owners because that degrades the appearance of the wall or ceiling. The cost is not insignificant to either the PCO or the building owner and ultimately causes subscriber rates to be higher than necessary. If the work needed at each unit causes a negative impact on subscribers that is a serious deterrent to MDU owners and they have repeatedly said that is the case."
5. Robert Oulton of NEXwave states that, "One good rule of thumb for determining wire accessibility is: could a person gain access to the wires without causing damage to the property? Cutting holes at each unit affects properties physically which I believe is doing unneeded damage. More importantly, MDU owners view it the same way. NCTA states the whole process is easy. That might be if you know exactly--to the inch--where the wire is and there are no special paint or trim or wallpaper requirements. That is not the normal situation. Just finding the exact spot is time consuming and often quite frustrating; matching wallpaper will drive you crazy. Also, if the competitive service is satellite based and it is a 'stacked' single-wire solution, now the most common, the provider needs access to electricity for its amplifiers and this is rarely found inside a wall or ceiling. Also, installers are not professional painters/refinishers, they provide a separate specialty which adds further complications for many MDU owners."
6. Steve Friedman of People's Choice states that, "My company is relatively new in the business but I can tell you without reservation that MDU owners do consider the walls made of sheet rock and drywall as integral to the construction of the building, they are not just some cosmetic covering without structural purpose. Owners protect those walls and ceilings not only for appearance purposes but because any mistakes in making holes in sheet rock can have negative consequences for safety and longevity of the buildings."

7. Rich Muller of Atlas Consulting states that, "I have been a PCO operator and now consult with PCOs all around the country. I have had experience with these issues ever since the FCC issued the Inside Wiring Rules in 1997. If Congress and the FCC want to enhance video competition in MDUs the Rules need improvements. Certainly excluding sheet rock and drywall from the definition of physically inaccessible will be a step in the wrong direction. Anybody who has experience and is candid knows that to open a hole at each unit, as opposed to having the demarcation point at the lock box/pedestal, is a waste of time and money, causes subsequent problems with walls and ceilings and is frequently viewed by MDU owners as a deal breaker. That of course would hurt PCOs and subscribers. The cost, even if it is only a percent of two of the monthly ROE contract amount, often makes the difference between a business arrangement that is acceptable and one that is financially nonviable. Moving the demarcation point to the logical place, the lock box, prevents any damage to the building and saves money for all concerned. In the end, this makes competition more viable. Anyone who wants PCOs and alternative MVPDs to open holes at each unit to access the wiring is arguing to protect the incumbent provider."

Conclusion

The Independent Multi-Family Communications Council has read the Comments submitted on this Matter and believes a strong case has been made to reinstate the expanded definition of Physically Inaccessible and urges the FCC to adopt forthwith a regulation doing so.

Respectfully submitted,

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